



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5594

Introduced 2/15/2012, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

See Index

Amends the Professional Counselor and Clinical Professional Counselor Licensing Act. Renames the Act the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act (and makes conforming changes in other Acts). Creates new provisions concerning licensed professional counselors practice requirements and confidential information. Also makes changes in provisions concerning the declaration of public policy; definitions; exemptions; restrictions and limitations; unlicensed practice; violations; civil penalties; powers and duties of the Department; the Professional Counselor and Examining and Disciplinary Board; qualifications for a license; licenses; renewals; restorations; persons in military service; inactive status; fees; checks or orders dishonored; privileged communications and exceptions; grounds for discipline; refusal, revocation, or suspension of licensure; violations; injunctions; cease and desist orders; investigations; notice and hearings; record of proceedings; transcripts; subpoenas; oaths; compelling testimony; findings and recommendations; the Board; rehearings; order for rehearings; appointment of a hearing officer; order or certified copy; prima facie proof; restoration of suspended or revoked licenses; summary suspension of license; certification of record; costs; violations; and the Administrative Procedure Act and applications. Amends the Regulatory Sunset Act to extend the Professional Counselor and Clinical Professional Counselor Licensing Act from January 1, 2013 to January 1, 2023. Effective immediately.

LRB097 18433 CEL 63660 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. The Regulatory Sunset Act is amended by changing
5 Section 4.23 and by adding Section 4.33 as follows:

6 (5 ILCS 80/4.23)

7 Sec. 4.23. Acts and Sections repealed on January 1, 2013.

8 The following Acts and Sections of Acts are repealed on January
9 1, 2013:

10 The Dietetic and Nutrition Services Practice Act.

11 The Elevator Safety and Regulation Act.

12 The Fire Equipment Distributor and Employee Regulation Act
13 of 2011.

14 The Funeral Directors and Embalmers Licensing Code.

15 The Naprapathic Practice Act.

16 ~~The Professional Counselor and Clinical Professional~~
17 ~~Counselor Licensing Act.~~

18 The Wholesale Drug Distribution Licensing Act.

19 Section 2.5 of the Illinois Plumbing License Law.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

21 (5 ILCS 80/4.33 new)

22 Sec. 4.33. Act repealed on January 1, 2023. The following

1 Act is repealed on January 1, 2023:

2 The Professional Counselor and Clinical Professional
3 Counselor Licensing and Practice Act.

4 Section 5. The Professional Counselor and Clinical
5 Professional Counselor Licensing Act is amended by changing
6 Sections 1, 5, 10, 15, 20, 21, 25, 30, 45, 50, 60, 65, 75, 80,
7 85, 90, 95, 100, 105, 110, 115, 120, 125, 130, 135, 145, 155,
8 160, and 165 and by adding Sections 18 and 98 as follows:

9 (225 ILCS 107/1)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 1. Short title. This Act may be cited as the
12 Professional Counselor and Clinical Professional Counselor
13 Licensing and Practice Act.

14 (Source: P.A. 87-1011.)

15 (225 ILCS 107/5)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 5. Declaration of public policy. The practice of
18 professional counseling and clinical professional counseling
19 is hereby declared to affect the public health, safety and
20 welfare, and to be subject to regulation in the public
21 interest. The purpose of the Act is to protect and benefit the
22 public by setting standards of qualifications, education,
23 training, and experience for those who seek to engage in the

1 independent practice of clinical professional counseling and
2 in the practice of professional counseling in the State of
3 Illinois and to obtain a license and hold the title of
4 professional counselor, to promote high standards of
5 professional performance for those licensed to practice
6 professional counseling and clinical professional counseling
7 in the State of Illinois, and to protect the public from
8 unprofessional conduct by persons licensed to practice
9 professional counseling and the independent practice of
10 clinical professional counseling.

11 (Source: P.A. 87-1011.)

12 (225 ILCS 107/10)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 10. Definitions. As used in this Act:

15 "Address of record" means the designated address recorded
16 by the Department in the applicant's or licensee's application
17 file or license file, as maintained by the Department's
18 licensure maintenance unit. It is the duty of the applicant or
19 licensee to inform the Department of any change of address and
20 those changes must be made either through the Department's
21 website or by contacting the Department.

22 "Department" means the Department of Financial and
23 Professional Regulation.

24 ~~"Director" means the Director of Professional Regulation.~~

25 "Board" means the Professional Counselor Licensing and

1 Disciplinary Board as appointed by the Secretary ~~Director~~.

2 "Person" means an individual, association, partnership, or
3 corporation.

4 "Professional counseling" means the provision of services
5 to individuals, couples, groups, families, and organizations
6 in any one or more of the fields of professional counseling.

7 "Professional counseling" includes the therapeutic process of
8 (i) conducting assessments and diagnoses for the purpose of
9 establishing treatment goals and objectives and (ii) planning,
10 implementing, and evaluating treatment plans using treatment
11 interventions to facilitate human development and to identify
12 and remediate mental, emotional, or behavioral disorders and
13 associated distresses which interfere with mental health.

14 ~~Professional counseling includes, but is not limited to:~~

15 ~~(1) social, emotional, educational, and career testing~~
16 ~~and evaluation;~~

17 ~~(2) a professional relationship between a counselor~~
18 ~~and a client in which the counselor provides assistance in~~
19 ~~coping with life issues that include relationships,~~
20 ~~conflicts, problem solving, decision making, and~~
21 ~~developmental concerns; and~~

22 ~~(3) research.~~

23 Professional counseling may also include clinical
24 professional counseling as long as it is not conducted in an
25 independent private practice as defined in this Act.

26 "Clinical professional counseling" means the provision of

1 professional counseling and mental health services, which
2 includes, but is not limited to, the application of clinical
3 counseling theory and techniques to prevent and alleviate
4 mental and emotional disorders and psychopathology and to
5 promote optimal mental health, rehabilitation, treatment,
6 testing, assessment, and evaluation. "Clinical professional
7 counseling" includes the therapeutic process of (i) conducting
8 assessments and diagnoses for the purpose of establishing
9 treatment goals and objectives and (ii) planning,
10 implementing, and evaluating treatment plans using treatment
11 interventions to facilitate human development and to identify
12 and remediate mental, emotional, or behavioral disorders and
13 associated distresses which interfere with mental health. It
14 also includes clinical counseling and psychotherapy in a
15 professional relationship to assist individuals, couples,
16 families, groups, and organizations to alleviate emotional
17 disorders, to understand conscious and unconscious motivation,
18 to resolve emotional, relationship, and attitudinal conflicts,
19 and to modify behaviors that interfere with effective
20 emotional, social, adaptive, and intellectual functioning.

21 "Licensed professional counselor" and "professional
22 counselor" means a person who holds a license authorizing the
23 practice of professional counseling as defined in this Act, as
24 long as it is not conducted in the independent practice of
25 clinical professional counseling, as defined in this Section.

26 "Independent practice of clinical professional counseling"

1 means providing the services of or engaging in the practice of
2 clinical professional counseling, as defined in this Act, by an
3 individual who regulates and is responsible for her or his own
4 practice or treatment procedures.

5 "Licensed clinical professional counselor" and "clinical
6 professional counselor" means a person who holds a license
7 authorizing the independent practice of clinical professional
8 counseling in private practice as defined in this Act.

9 "Independent private practice of clinical professional
10 counseling" means the application of clinical professional
11 counseling knowledge and skills by a licensed clinical
12 professional counselor who (i) regulates and is responsible for
13 her or his own practice or treatment procedures and (ii) is
14 self-employed or works in a group practice or setting not
15 qualified under Internal Revenue Service regulations as a
16 not-for-profit business.

17 "Clinical supervision" or "supervision" means review of
18 aspects of counseling and case management in a ~~face to face~~
19 meeting with the person under supervision.

20 "Qualified supervisor" or "qualified clinical supervisor"
21 means any person who is a licensed clinical professional
22 counselor, licensed clinical social worker, licensed clinical
23 psychologist, psychiatrist as defined in Section 1-121 of the
24 Mental Health and Developmental Disabilities Code, or other
25 supervisor as defined by rule. A qualified supervisor may be
26 provided at the applicant's place of work, or may be hired by

1 the applicant to provide supervision.

2 "License" means that which is required to practice
3 professional counseling or clinical professional counseling as
4 defined in this Act.

5 "Volunteer" means a person performing services for a
6 nonprofit organization, a nonprofit corporation, a hospital, a
7 government entity, or a private business without compensation,
8 other than reimbursement for actual expenses incurred.

9 "Volunteer" includes serving as a director, officer, trustee,
10 or direct service volunteer.

11 "Secretary" means the Secretary of Financial and
12 Professional Regulation.

13 (Source: P.A. 92-719, eff. 7-25-02.)

14 (225 ILCS 107/15)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 15. Exemptions.

17 (a) This Act does not prohibit any persons legally
18 regulated in this State by any other Act from engaging in the
19 practice for which they are authorized as long as they do not
20 represent themselves by the title of "professional counselor",
21 "licensed professional counselor", "clinical professional
22 counselor", or "licensed clinical professional counselor".
23 This Act does not prohibit the practice of nonregulated
24 professions whose practitioners are engaged in the delivery of
25 human services as long as these practitioners do not represent

1 themselves as or use the title of "professional counselor",
2 "licensed professional counselor", "clinical professional
3 counselor", or "licensed clinical professional counselor".

4 (b) Nothing in this Act shall be construed to limit the
5 activities and services of a student, intern, or resident in
6 professional counseling or clinical professional counseling
7 seeking to fulfill educational requirements in order to qualify
8 for a license under this Act if these activities and services
9 constitute a part of the student's supervised course of study,
10 ~~or an individual seeking to fulfill the post degree experience~~
11 ~~requirements in order to qualify for licensing under this Act,~~
12 as long as the activities and services are not conducted in an
13 independent practice, as defined in this Act, if the activities
14 and services are supervised as specified in this Act, and that
15 the student, intern, or resident is designated by a title
16 "intern" or "resident" or other designation of trainee status.
17 Nothing in the Act requires individuals to obtain the
18 professional counselor license prior to obtaining the clinical
19 professional counselor license. Nothing contained in this
20 Section shall be construed to permit students, interns, or
21 residents to offer their services as professional counselors or
22 clinical professional counselors to any other person ~~and to~~
23 ~~accept remuneration~~ for such professional counseling or
24 clinical professional counseling services other than as
25 specifically excepted in this Section, unless they have been
26 licensed under this Act.

1 (c) Corporations, partnerships, and associations may
2 employ practicum students, interns, or post-degree candidates
3 seeking to fulfill educational requirements or the
4 professional experience requirements needed to qualify for a
5 license under this Act if their activities and services
6 constitute a part of the student's supervised course of study
7 or post-degree professional experience requirements. Nothing
8 in this paragraph shall prohibit a corporation, partnership, or
9 association from contracting with a licensed health care
10 professional to provide services that they are licensed to
11 provide.

12 (d) Nothing in this Act shall prevent the employment, by a
13 professional counselor or clinical professional counselor,
14 person, association, partnership, or a corporation furnishing
15 professional counseling or clinical professional counseling
16 services for remuneration, of persons not licensed as
17 professional counselors or clinical professional counselors
18 under this Act to perform services in various capacities as
19 needed if these persons are not in any manner held out to the
20 public or do not hold themselves out to the public by any title
21 or designation stating or implying that they are professional
22 counselors or clinical professional counselors or performing
23 professional counseling services or clinical professional
24 counseling services.

25 (e) Nothing in this Act shall be construed to limit the
26 services of a person, not licensed under the provisions of this

1 Act, in the employ of a federal, State, county, or municipal
2 agency or other political subdivision or not-for-profit
3 corporation providing human services if (1) the services are a
4 part of the duties in his or her salaried position, (2) the
5 services are performed solely on behalf of his or her employer,
6 and (3) that person does not in any manner represent himself or
7 herself as or use the title of "professional counselor",
8 "licensed professional counselor", "clinical professional
9 counselor", or "licensed clinical professional counselor".

10 (f) Duly recognized members of any religious organization
11 shall not be restricted from functioning in their ministerial
12 capacity provided they do not represent themselves as being
13 professional counselors or clinical professional counselors,
14 or as providing "professional counseling" or "clinical
15 professional counseling". This Act shall not apply or be
16 construed so as to apply to the employees or volunteers ~~agents~~
17 of a church or religious organization or an organization owned,
18 controlled, or affiliated with a church or religious
19 organization, unless the church, religious organization, or
20 owned, controlled, or affiliated organization designates or
21 holds these employees or volunteers ~~agents~~ out to the public as
22 professional counselors or clinical professional counselors or
23 holds out their services as being "professional counseling" or
24 "clinical professional counseling".

25 (g) Nothing in this Act shall prohibit individuals not
26 licensed under the provisions of this Act who are employees or

1 volunteers of work ~~in~~ self-help groups or programs or
2 not-for-profit organizations from providing services in those
3 groups, programs, or organizations, as long as those persons
4 are not in any manner held out to the public as practicing
5 professional counseling or clinical professional counseling,
6 or do not hold themselves out to the public by any title or
7 designation stating or implying that they are professional
8 counselors or clinical professional counselors.

9 (h) Nothing in this Act shall be construed to limit the
10 activities and use of the official title of "professional
11 counselor" or "clinical professional counselor" on the part of
12 a person not licensed under this Act who is an academic
13 employee of a duly chartered institution of higher education
14 and who holds educational and professional qualifications
15 equivalent to those required for licensing under this Act,
16 insofar as such activities are performed in the person's role
17 as an academic employee, or insofar as such person engages in
18 public speaking with or without remuneration.

19 (i) Nothing in this Act shall be construed to require
20 licensure under this Act or limit the services of a school
21 counselor certified by the State Teacher Certification Board
22 and employed as authorized by Section 10-22-24a or any other
23 provision of the School Code as long as that person is not in
24 any manner held out to the public as a "professional counselor"
25 or "clinical professional counselor" or does not hold out his
26 or her services as being "professional counseling" or "clinical

1 professional counseling".

2 (j) Nothing in this Act shall be construed to require any
3 hospital, clinic, home health agency, hospice, or other entity
4 that provides health care to employ or to contract with a
5 person licensed under this Act to provide professional
6 counseling or clinical professional counseling services. These
7 persons may not hold themselves out or represent themselves to
8 the public as being licensed under this Act.

9 (k) Nothing in this Act shall be construed to require
10 licensure under this Act or limit the services of a person who
11 is an employee, as defined by federal Internal Revenue Service
12 regulations, of ~~employed by~~ a private elementary or secondary
13 school who provides counseling within the scope of his or her
14 employment as long as that person is not in any manner held out
15 to the public as a "professional counselor" or "clinical
16 professional counselor" or does not hold out his or her
17 services as being "professional counseling" or "clinical
18 professional counseling".

19 (l) Nothing in this Act shall be construed to require
20 licensure under this Act or limit the services of a rape crisis
21 counselor who is an employee or volunteer of a rape crisis
22 organization as defined in Section 8-802.1 of the Code of Civil
23 Procedure as long as that person is not in any manner held out
24 to the public as a "professional counselor" or "clinical
25 professional counselor" or does not hold out his or her
26 services as being "professional counseling" or "clinical

1 professional counseling".

2 (m) Nothing in this Act shall be construed to prevent any
3 licensed social worker, licensed clinical social worker, or
4 licensed clinical psychologist from practicing professional
5 counseling as long as that person is not in any manner held out
6 to the public as a "professional counselor" or "clinical
7 professional counselor" or does not hold out his or her
8 services as being "professional counseling" or "clinical
9 professional counseling".

10 (n) Nothing in this Act shall be construed to limit the
11 activities and use of the official title of "professional
12 counselor" or "clinical professional counselor" on the part of
13 a person not licensed under this Act who is a physician
14 licensed to practice medicine in all of its branches under the
15 Medical Practice Act of 1987.

16 (o) Nothing in this Act shall be construed to require
17 licensure under this Act or limit the services of a domestic
18 violence counselor who is an employee or volunteer of a
19 domestic violence program as defined in Section 227 of the
20 Illinois Domestic Violence Act of 1986.

21 (Source: P.A. 92-719, eff. 7-25-02.)

22 (225 ILCS 107/18 new)

23 Sec. 18. Licensed professional counselors practice
24 requirements.

25 (a) Licensed professional counselors may not engage in the

1 independent practice of clinical professional counseling
2 without a clinical professional counselor license.

3 (b) When providing clinical professional counseling
4 services as set forth in this Act in the independent practice
5 of clinical professional counseling, a licensed clinical
6 professional counselor shall always operate and represent
7 himself or herself as an employee of the independent practice
8 and may not work as an independent contractor as defined by
9 federal Internal Revenue Service regulations.

10 (c) Licensed professional counselors and licensed clinical
11 professional counselors may provide other services outside of
12 the scope of professional counseling or clinical professional
13 counseling as defined in this Act. Individuals providing
14 services within the scope of this Act must be appropriately
15 licensed.

16 (225 ILCS 107/20)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 20. Restrictions and limitations.

19 (a) No person shall, without a valid license as a
20 professional counselor issued by the Department: (i) in any
21 manner hold himself or herself out to the public as a
22 professional counselor under this Act; (ii) attach the title
23 "professional counselor" or "licensed professional counselor";
24 or (iii) offer to render or render to individuals,
25 corporations, or the public professional counseling services.

1 (b) No person shall, without a valid license as a clinical
2 professional counselor issued by the Department: (i) in any
3 manner hold himself or herself out to the public as a clinical
4 professional counselor or licensed clinical professional
5 counselor under this Act; (ii) attach the title "clinical
6 professional counselor" or "licensed clinical professional
7 counselor"; or (iii) offer to render to individuals,
8 corporations, or the public clinical professional counseling
9 services.

10 (c) Licensed professional counselors may not engage in
11 independent private practice as defined in this Act ~~without a~~
12 ~~clinical professional counseling license~~. In an independent
13 private practice, a licensed professional counselor must
14 practice at all times under the order, control, and full
15 professional responsibility as an employee, as defined by
16 federal Internal Revenue Service, or a volunteer of a licensed
17 clinical professional counselor, a licensed clinical social
18 worker, a licensed clinical psychologist, or a psychiatrist, ~~as~~
19 ~~defined in Section 1-121 of the Mental Health and Developmental~~
20 ~~Disabilities Code~~.

21 (d) No association, limited liability company, or
22 partnership shall practice clinical professional counseling or
23 professional counseling unless every member, partner, and
24 employee of the association or partnership who practices
25 professional counseling or clinical professional counseling,
26 or who renders professional counseling or clinical

1 professional counseling services, holds a currently valid
2 license issued under this Act. No license shall be issued to a
3 corporation, the stated purpose of which includes or which
4 practices or which holds itself out as available to practice
5 professional counseling or clinical professional counseling
6 unless it is organized under the Professional Service
7 Corporation Act.

8 (e) Nothing in this Act shall be construed as permitting
9 persons licensed as professional counselors or clinical
10 professional counselors to engage in any manner in the practice
11 of medicine in all its branches as defined by law in this
12 State.

13 (f) When, in the course of providing professional
14 counseling or clinical professional counseling services to any
15 person, a professional counselor or clinical professional
16 counselor licensed under this Act finds indication of a disease
17 or condition that in his or her professional judgment requires
18 professional service outside the scope of practice as defined
19 in this Act, he or she shall refer that person to a physician
20 licensed to practice medicine in all of its branches or another
21 appropriate health care practitioner.

22 (Source: P.A. 94-765, eff. 1-1-07.)

23 (225 ILCS 107/21)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 21. Unlicensed practice; violation; civil penalty.

1 (a) Any person who practices, offers to practice, attempts
2 to practice, or holds himself or herself out to practice as a
3 clinical professional counselor or professional counselor
4 without being licensed or exempt under this Act shall, in
5 addition to any other penalty provided by law, pay a civil
6 penalty to the Department in an amount not to exceed \$10,000
7 ~~\$5,000~~ for each offense, as determined by the Department. The
8 civil penalty shall be assessed by the Department after a
9 hearing is held in accordance with the provisions set forth in
10 this Act regarding the provision of a hearing for the
11 discipline of a licensee.

12 (b) The Department may investigate any actual, alleged, or
13 suspected unlicensed activity.

14 (c) The civil penalty shall be paid within 60 days after
15 the effective date of the order imposing the civil penalty. The
16 order shall constitute a final judgment and may be filed and
17 execution had thereon in the same manner as any judgment from
18 any court of record.

19 (Source: P.A. 92-719, eff. 7-25-02.)

20 (225 ILCS 107/25)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 25. Powers and duties of the Department. Subject to
23 the provisions of this Act, the Department may exercise the
24 following functions, powers, and duties:

25 (a) Authorize examinations to ascertain the qualifications

1 and fitness of applicants for licensing as professional
2 counselors or clinical professional counselors and pass upon
3 the qualifications of applicants for licensure by endorsement.

4 (b) Conduct hearings on proceedings to refuse to issue or
5 renew or to revoke licenses or suspend, place on probation,
6 censure, or reprimand or take any other disciplinary or
7 non-disciplinary action with regard to a person ~~persons~~
8 licensed under this Act, ~~and to refuse to issue or renew or to~~
9 ~~revoke licenses, or suspend, place on probation, censure, or~~
10 ~~reprimand persons licensed under this Act.~~

11 (c) Formulate rules and regulations required for the
12 administration of this Act.

13 (d) Maintain rosters of the names and addresses of all
14 licensees, and all persons whose licenses have been suspended,
15 revoked, or denied renewal for cause within the previous
16 calendar year. These rosters shall be available upon written
17 request and payment of the required fee.

18 (e) Establish rules for determining approved ~~undergraduate~~
19 ~~human services programs and~~ graduate professional counseling,
20 clinical professional counseling, psychology, rehabilitation
21 counseling and similar programs ~~and prepare and maintain a list~~
22 ~~of colleges and universities offering such programs whose~~
23 ~~graduates, if they otherwise meet the requirements of this Act,~~
24 ~~are eligible to apply for a license.~~

25 (Source: P.A. 87-1011.)

1 (225 ILCS 107/30) (from Ch. 111, par. 8451-30)

2 (Section scheduled to be repealed on January 1, 2013)

3 Sec. 30. Professional Counselor Examining and Disciplinary
4 Board.

5 (a) The Secretary ~~Director~~ shall appoint a Board which
6 shall serve in an advisory capacity to the Secretary ~~Director~~.
7 The Board shall consist of 7 persons, 2 of whom are licensed
8 solely as professional counselors, 3 of whom are licensed
9 solely as clinical professional counselors, one full-time
10 faculty member of an accredited college or university that is
11 engaged in training professional counselors or clinical
12 professional counselors who possesses the qualifications
13 substantially equivalent to the education and experience
14 requirements for a professional counselor or clinical
15 professional counselor, and one member of the public who is not
16 a licensed health care provider. In appointing members of the
17 Board, the Secretary ~~Director~~ shall give due consideration to
18 the adequate representation of the various fields of
19 counseling. In appointing members of the Board, the Secretary
20 ~~Director~~ shall give due consideration to recommendations by
21 members of the professions of professional counseling and
22 clinical professional counseling, the Statewide organizations
23 representing the interests of professional counselors and
24 clinical professional counselors, organizations representing
25 the interests of academic programs, rehabilitation counseling
26 programs, and approved counseling programs in the State of

1 Illinois.

2 (b) Members shall be appointed for and shall serve 4 year
3 terms and until their successors are appointed and qualified.
4 No member of the Board shall serve more than 2 full consecutive
5 terms. ~~except that of the initial appointments 2 members shall~~
6 ~~be appointed to serve for 2 years, 2 shall be appointed to~~
7 ~~serve for 3 years, and the remaining shall be appointed to~~
8 ~~serve for 4 years and until their successors are appointed and~~
9 ~~qualified. No member shall be reappointed to the Board for a~~
10 ~~term that would cause continuous service on the Board to be~~
11 ~~longer than 8 years.~~ Any appointment to fill a vacancy shall be
12 for the unexpired portion of the term.

13 (c) The membership of the Board should reasonably reflect
14 representation from different geographic areas of Illinois.

15 (d) (Blank). ~~Any member appointed to fill a vacancy shall~~
16 ~~be eligible for reappointment to only one full term.~~

17 (e) The Secretary shall have the authority to ~~Director may~~
18 ~~remove or suspend~~ any member for cause at any time prior to the
19 expiration of his or her term. The Secretary shall be the sole
20 arbiter of cause.

21 (f) The Board shall annually elect one of its members as
22 chairperson.

23 (g) The members of the Board shall be reimbursed for all
24 legitimate, necessary, and authorized expenses incurred in
25 attending the meetings of the Board.

26 (h) The Board may make recommendations on matters relating

1 to approving graduate counseling, rehabilitation counseling,
2 psychology, and related programs.

3 (i) The Board may make recommendations on matters relating
4 to continuing education including the number of hours necessary
5 for license renewal, waivers for those unable to meet such
6 requirements, and acceptable course content. These
7 recommendations shall not impose an undue burden on the
8 Department or an unreasonable restriction on those seeking
9 license renewal.

10 (j) The Secretary ~~Director~~ shall give due consideration to
11 all recommendations of the Board.

12 (k) Four members ~~A majority~~ of the Board ~~members currently~~
13 ~~appointed~~ shall constitute a quorum. A quorum is required for
14 all Board decisions. ~~A vacancy in the membership of the Board~~
15 ~~shall not impair the right of a quorum to perform all of the~~
16 ~~duties of the Board.~~

17 (l) Members of the Board shall have no criminal, civil, or
18 professional liability in an action based upon a disciplinary
19 proceeding or other activity performed in good faith as a
20 member of the Board, except for willful or wanton misconduct.

21 (Source: P.A. 92-719, eff. 7-25-02.)

22 (225 ILCS 107/45)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 45. Qualifications for a license.

25 (a) Professional counselor. A person is qualified to be

1 licensed as a licensed professional counselor, and the
2 Department shall issue a license authorizing the practice of
3 professional counseling to an applicant who:

4 (1) has applied in writing on the prescribed form and
5 has paid the required fee;

6 (2) is at least 21 years of age and has not engaged in
7 conduct or activities which would constitute grounds for
8 discipline under this Act;

9 (3) is a graduate of:

10 (A) a master's or doctoral level program in the
11 field of counseling, rehabilitation counseling,
12 psychology, or similar degree program approved by the
13 Department; or

14 (B) in the case of an applicant who applied ~~applies~~
15 for licensure before the effective date of this
16 amendatory Act of the 96th General Assembly, an
17 approved baccalaureate program in human services or
18 similar degree program approved by the Department and
19 can document the equivalent of 5 years of full-time
20 satisfactory supervised experience, as established by
21 rule, under a qualified supervisor;

22 (4) has passed an examination for the practice of
23 professional counseling as authorized by the Department;
24 and

25 (5) has paid the fees required by this Act.

26 Any person who has received certification or licensure by

1 any State or national organization whose standards are accepted
2 by the Department as being substantially similar to the
3 standards in this Act may apply for a professional counselor
4 license and need not be examined further.

5 (b) Clinical professional counselor. A person is qualified
6 to be licensed as a clinical professional counselor, and the
7 Department shall issue a license authorizing the practice of
8 clinical professional counseling to an applicant who:

9 (1) has applied in writing on the prescribed form and
10 has paid the required fee;

11 (2) is at least 21 years of age and has not engaged in
12 conduct or activities which would constitute grounds for
13 discipline under this Act;

14 (3) is a graduate of:

15 (A) a master's level program in the field of
16 counseling, rehabilitation counseling, psychology, or
17 similar degree program approved by the Department and
18 has completed the equivalent of 2 years full-time
19 satisfactory supervised employment or experience
20 working as a clinical counselor under the direction of
21 a qualified supervisor subsequent to the degree; or

22 (B) a doctoral program in the field of counseling,
23 rehabilitation counseling, psychology, or similar
24 program approved by the Department and has completed
25 the equivalent of 2 years full-time satisfactory
26 supervised employment or experience working as a

1 clinical counselor under the direction of a qualified
2 supervisor, at least one year of which is subsequent to
3 the degree;

4 (4) has passed the examination for the practice of
5 clinical professional counseling as authorized by the
6 Department; and

7 (5) has paid the fees required by this Act.

8 Any person who has received certification or licensure by
9 any State or national organization whose standards are accepted
10 by the Department as being substantially similar to the
11 standards in this Act may apply for a clinical professional
12 counselor license, and need not be examined further.

13 (c) Examination for applicants under this Act shall be held
14 at the discretion of the Department from time to time but not
15 less than once each year. The examination used shall be
16 authorized by the Department.

17 (d) Upon application and payment of the required fee, an
18 applicant who has an active license as a clinical psychologist
19 or a clinical social worker licensed under the laws of this
20 State may, without examination, be granted registration as a
21 licensed clinical professional counselor by the Department.

22 (Source: P.A. 96-1139, eff. 7-21-10.)

23 (225 ILCS 107/50)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 50. Licenses; renewal; restoration; person in

1 military service; inactive status.

2 (a) The expiration date and renewal period for each license
3 issued under this Act shall be set by rule. As a condition for
4 renewal of a license, the licensee shall be required to
5 complete continuing education in accordance with rules
6 established by the Department. ~~The licensee may renew a license~~
7 ~~during the 30 day period preceding its expiration date by~~
8 ~~paying the required fee and demonstrating compliance with any~~
9 ~~continuing education requirements.~~

10 (b) Any person who has permitted a license to expire or who
11 has a license on inactive status may have it restored by
12 submitting an application to the Department and filing proof of
13 fitness acceptable to the Department, ~~as defined by rule,~~ to
14 have the license restored, including, if appropriate, evidence
15 which is satisfactory to the Department certifying the active
16 practice of professional counseling or clinical professional
17 counseling in another jurisdiction and by paying the required
18 fee.

19 (c) If the person has not maintained an active practice in
20 another jurisdiction which is satisfactory to the Department,
21 the Department shall determine, by an evaluation program
22 established by rule, the person's fitness to resume active
23 status and shall establish procedures and requirements for
24 restoration. ~~The Department may also require the person to~~
25 ~~complete a specific period of evaluated professional~~
26 ~~counseling or clinical professional counseling work experience~~

1 ~~and may require successful completion of an examination.~~

2 (d) Notwithstanding any other provision of this Act
3 ~~However,~~ any person whose license expired while he or she was
4 (i) in federal service on active duty with the armed forces of
5 the United States or ~~, while called into service or training~~
6 ~~with~~ the State Militia or (ii) in training or education under
7 the supervision of the United States government prior to
8 induction into the military service may have his or her license
9 restored without paying any lapsed renewal fees if, within 2
10 years after the honorable termination of such service,
11 training, or education, ~~except under conditions other than~~
12 ~~honorable,~~ the Department is furnished with satisfactory
13 evidence that the person has been so engaged and that such
14 service, training, or education has been so terminated.

15 (e) A license to practice shall not be denied any applicant
16 because of the applicant's race, religion, creed, national
17 origin, political beliefs or activities, age, sex, sexual
18 orientation, or physical impairment.

19 (f) Any person requesting restoration from inactive status
20 shall (i) be required to pay the current renewal fee, (ii) meet
21 continuing education requirements, and (iii) be required to
22 restore his or her license as provided in this Act.

23 (Source: P.A. 87-1011; 87-1269.)

24 (225 ILCS 107/60)

25 (Section scheduled to be repealed on January 1, 2013)

1 Sec. 60. Fees. The Department shall provide by rule for a
2 schedule of fees for the administration and enforcement of this
3 Act, including, but not limited to, original licensure,
4 renewal, and restoration. The fees shall be nonrefundable ~~The~~
5 ~~fees imposed under this Act shall be set by rule and are not~~
6 ~~refundable.~~

7 All ~~of the~~ fees, fines, and penalties collected under this
8 Act shall be deposited into the General Professions Dedicated
9 Fund and shall be appropriated to the Department for the
10 ordinary and contingent expenses of the Department in the
11 administration of this Act.

12 (Source: P.A. 92-719, eff. 7-25-02.)

13 (225 ILCS 107/65)

14 (Section scheduled to be repealed on January 1, 2013)

15 Sec. 65. Payments; penalty for insufficient funds ~~Checks or~~
16 ~~orders dishonored.~~ Any person who issues or delivers a check or
17 other order to the Department that is returned to the
18 Department unpaid by the financial institution upon which it is
19 drawn shall pay to the Department, in addition to the amount
20 already owed to the Department, a fine of \$50. The fines
21 imposed by this Section are in addition to any other discipline
22 provided under this Act prohibiting unlicensed practice or
23 practice on a nonrenewed license. The Department shall notify
24 the person that payment of fees and fines shall be paid to the
25 Department by certified check or money order within 30 calendar

1 days after notification. If, after the expiration of 30 days
2 from the date of the notification, the person has failed to
3 submit the necessary remittance, the Department shall
4 automatically terminate the license or certification or deny
5 the application, without hearing. If, after termination or
6 denial, the person seeks a license or certificate, he or she
7 shall apply to the Department for restoration or issuance of
8 the license or certificate and pay all fees and fines due to
9 the Department. The Department may establish a fee for the
10 processing of an application for restoration of a license to
11 pay all costs and expenses of processing of this application.
12 The Secretary ~~Director~~ may waive the fines due under this
13 Section in individual cases where the Secretary ~~Director~~ finds
14 that the fines would be unnecessarily burdensome.

15 (Source: P.A. 92-146, eff. 1-1-02.)

16 (225 ILCS 107/75)

17 (Section scheduled to be repealed on January 1, 2013)

18 Sec. 75. Privileged communications and exceptions.

19 (a) No licensed professional counselor or licensed
20 clinical professional counselor shall disclose any information
21 acquired from persons consulting the counselor in a
22 professional capacity, except that which may be voluntarily
23 disclosed under the following circumstances:

24 (1) In the course of formally reporting, conferring, or
25 consulting with administrative superiors, colleagues, or

1 consultants who share professional responsibility, in
2 which instance all recipients of the information are
3 similarly bound to regard the communication as privileged;

4 (2) With the written consent of the person who provided
5 the information;

6 (3) In the case of death or disability, with the
7 written consent of a personal representative, other person
8 authorized to sue, or the beneficiary of an insurance
9 policy on the person's life, health or physical condition;

10 (4) When a communication reveals the intended
11 commission of a crime or harmful act and such disclosure is
12 judged necessary by the licensed professional counselor or
13 licensed clinical professional counselor to protect any
14 person from a clear, imminent risk of serious mental or
15 physical harm or injury, or to forestall a serious threat
16 to the public safety; or

17 (5) When the person waives the privilege by bringing
18 any public charges against the licensee.

19 (b) When the person is a minor under the laws of the State
20 of Illinois and the information acquired by the licensed
21 professional counselor or licensed clinical professional
22 counselor indicates the minor was the victim or subject of a
23 crime, the licensed professional counselor or licensed
24 clinical professional counselor may be required to testify in
25 any judicial proceedings in which the commission of that crime
26 is the subject of inquiry when, after in camera review of the

1 information that the licensed professional counselor or
2 licensed clinical professional counselor acquired, the court
3 determines that the interests of the minor in having the
4 information held privileged are outweighed by the requirements
5 of justice, the need to protect the public safety or the need
6 to protect the minor, except as provided under the Abused and
7 Neglected Child Reporting Act.

8 (c) Any person having access to records or anyone who
9 participates in providing professional counseling or clinical
10 professional counseling services, or, in providing any human
11 services, is supervised by a licensed professional counselor or
12 licensed clinical professional counselor, is similarly bound
13 to regard all information and communications as privileged in
14 accord with this Section.

15 (d) Nothing in this Act shall be construed to prohibit a
16 licensed professional counselor or licensed clinical
17 professional counselor from voluntarily testifying in court
18 hearings concerning matters of adoption, child abuse, child
19 neglect or other matters pertaining to children, except as
20 provided under the Abused and Neglected Child Reporting Act and
21 matters pertaining to elders as set forth in the Elder Abuse
22 and Neglect Act.

23 (e) The Mental Health and Developmental Disabilities
24 Confidentiality Act is incorporated herein as if all of its
25 provisions were included in this Act. In the event of a
26 conflict between the application of this Section and the Mental

1 Health and Developmental Disabilities Confidentiality Act to a
2 specific situation, the provisions of the Mental Health and
3 Developmental Disabilities Confidentiality Act shall control.

4 (f) Licensed professional counselors and licensed clinical
5 professional counselors when performing clinical professional
6 counseling services or professional counseling services shall
7 comply with all counselor licensure rules and laws regardless
8 of the employment or work setting.

9 (Source: P.A. 87-1011.)

10 (225 ILCS 107/80)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 80. Grounds for discipline; refusal, revocation, or
13 suspension of licensure.

14 (a) The Department may refuse to issue, renew, or may
15 revoke, suspend, place on probation, reprimand, or take other
16 disciplinary or non-disciplinary action as the Department
17 deems appropriate, including the issuance of fines not to
18 exceed \$10,000 ~~\$1000~~ for each violation, with regard to any
19 license for any one or more of the following:

20 (1) Material misstatement in furnishing information to
21 the Department or to any other State agency.

22 (2) Violations or negligent or intentional disregard
23 of this Act, ~~or any of its~~ rules adopted under this Act.

24 (3) Conviction by plea of guilty or nolo contendere,
25 finding of guilt, jury verdict, or entry of judgment or by

1 sentencing of any crime, including, but not limited to,
2 convictions, preceding sentences of supervision,
3 conditional discharge, or first offender probation, under
4 the laws of any jurisdiction of the United States: (i) that
5 is a felony or (ii) that is a misdemeanor, an essential
6 element of which is dishonesty, or that is directly related
7 to the practice of the profession. Conviction of any crime
8 under the laws of the United States or any state or
9 territory thereof that is a felony, or that is a
10 misdemeanor, an essential element of which is dishonesty,
11 or of any crime which is directly related to the practice
12 of the profession.

13 (4) Fraud or Making any misrepresentation in applying
14 for renewal of a license under this Act for the purpose of
15 obtaining a license, or violating any provision of this Act
16 or its rules.

17 (5) Professional incompetence or gross negligence in
18 the rendering of professional counseling or clinical
19 professional counseling services.

20 (6) Malpractice.

21 (7) Aiding or assisting another person in violating any
22 provision of this Act or any rules.

23 (8) Failing to provide information within 60 days in
24 response to a written request made by the Department.

25 (9) Engaging in dishonorable, unethical, or
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public and violating the rules of
2 professional conduct adopted by the Department.

3 (10) Habitual or excessive use or abuse of drugs as
4 defined in law as controlled substances, alcohol, or any
5 other substance ~~addiction to alcohol, narcotics,~~
6 ~~stimulants, or any other chemical agent or drug~~ which
7 results in inability to practice with reasonable skill,
8 judgment, or safety.

9 (11) Discipline by another jurisdiction, the District
10 of Columbia, territory, county, or governmental agency, if
11 at least one of the grounds for the discipline is the same
12 or substantially equivalent to those set forth in this
13 Section.

14 (12) Directly or indirectly giving to or receiving from
15 any person, firm, corporation, partnership, or association
16 any fee, commission, rebate or other form of compensation
17 for any professional service not actually rendered.
18 Nothing in this paragraph (12) affects any bona fide
19 independent contractor or employment arrangements among
20 health care professionals, health facilities, health care
21 providers, or other entities, except as otherwise
22 prohibited by law. Any employment arrangements may include
23 provisions for compensation, health insurance, pension, or
24 other employment benefits for the provision of services
25 within the scope of the licensee's practice under this Act.
26 Nothing in this paragraph (12) shall be construed to

1 require an employment arrangement to receive professional
2 fees for services rendered.

3 (13) A finding by the Board that the licensee, after
4 having the license placed on probationary status, has
5 violated the terms of probation.

6 (14) Abandonment of a client.

7 (15) Willfully filing false reports relating to a
8 licensee's practice, including but not limited to false
9 records filed with federal or State agencies or
10 departments.

11 (16) Willfully failing to report an instance of
12 suspected child abuse or neglect as required by the Abused
13 and Neglected Child Reporting Act and in matters pertaining
14 to elders or suspected elder abuse as set forth in the
15 Elder Abuse and Neglect Act.

16 (17) Being named as a perpetrator in an indicated
17 report by the Department of Children and Family Services
18 pursuant to the Abused and Neglected Child Reporting Act,
19 and upon proof by clear and convincing evidence that the
20 licensee has caused a child to be or failed to take
21 reasonable steps to prevent a child from being an abused
22 child or neglected child as defined in the Abused and
23 Neglected Child Reporting Act.

24 (18) Physical or mental illness or disability,
25 including, but not limited to, deterioration through the
26 aging process or loss of motor ~~abilities and skills~~ that

1 ~~which~~ results in the inability to practice the profession
2 with reasonable judgment, skill, or safety.

3 (19) Solicitation of professional services by using
4 false or misleading advertising.

5 (20) Allowing one's license under this Act to be used
6 by an unlicensed person in violation of this Act. ~~Failure~~
7 ~~to file a return, or to pay the tax, penalty or interest~~
8 ~~shown in a filed return, or to pay any final assessment of~~
9 ~~tax, penalty or interest, as required by any tax Act~~
10 ~~administered by the Illinois Department of Revenue or any~~
11 ~~successor agency or the Internal Revenue Service or any~~
12 ~~successor agency.~~

13 (21) A finding that licensure has been applied for or
14 obtained by fraudulent means.

15 (22) Practicing under a false or, except as provided by
16 law, an assumed name ~~or attempting to practice under a name~~
17 ~~other than the full name as shown on the license or any~~
18 ~~other legally authorized name.~~

19 (23) Gross and willful overcharging for professional
20 services including filing statements for collection of
21 fees or monies for which services are not rendered.

22 (24) Rendering professional counseling or clinical
23 professional counseling services without a license or
24 practicing outside the scope of a license.

25 (25) Clinical supervisors failing to adequately and
26 responsibly monitor supervisees.

1 All fines imposed under this Section shall be paid within
2 60 days after the effective date of the order imposing the
3 fine.

4 (b) The Department shall deny, without hearing, any
5 application or renewal for a license under this Act to any
6 person who has defaulted on an educational loan guaranteed by
7 the Illinois State Assistance Commission or any governmental
8 agency of this State in accordance with item (5) of subsection
9 (g) of Section 2105-15 of the Civil Administrative Code of
10 Illinois Department of Professional Regulation Law; ~~however,~~
11 ~~the Department may issue a license or renewal if the person in~~
12 ~~default has established a satisfactory repayment record as~~
13 ~~determined by the Illinois Student Assistance Commission.~~

14 (b-5) The Department may refuse to issue or may suspend
15 without hearing, as provided for in the Code of Civil
16 Procedure, the license of any person who fails to file a
17 return, pay the tax, penalty, or interest shown in a filed
18 return, or pay any final assessment of the tax, penalty, or
19 interest as required by any tax Act administered by the
20 Illinois Department of Revenue, until such time as the
21 requirements of any such tax Act are satisfied in accordance
22 with subsection (g) of Section 2105-15 of the Civil
23 Administrative Code of Illinois Department of Professional
24 Regulation Law.

25 (b-10) In cases where the Department of Healthcare and
26 Family Services has previously determined a licensee or a

1 potential licensee is more than 30 days delinquent in the
2 payment of child support and has subsequently certified the
3 delinquency to the Department, the Department may refuse to
4 issue or renew or may revoke or suspend that person's license
5 or may take other disciplinary action against that person based
6 solely upon the certification of delinquency made by the
7 Department of Healthcare and Family Services in accordance with
8 item (5) of subsection (g) of Section 2105-15 of the Civil
9 Administrative Code of Illinois Department of Professional
10 Regulation Law.

11 (c) The determination by a court that a licensee is subject
12 to involuntary admission or judicial admission as provided in
13 the Mental Health and Developmental Disabilities Code will
14 result in an automatic suspension of his or her license. The
15 suspension will end upon a finding by a court that the licensee
16 is no longer subject to involuntary admission or judicial
17 admission, the issuance of an order so finding and discharging
18 the patient, and the recommendation of the Board to the
19 Secretary ~~Director~~ that the licensee be allowed to resume
20 professional practice.

21 (d) In enforcing this Act, the Department, upon a showing
22 of a possible violation, may compel an individual licensed to
23 practice under this Act, or who has applied for licensure under
24 this Act, to submit to a mental or physical examination, or
25 both, as required by and at the expense of the Department. The
26 Department may order the examining physician to present

1 testimony concerning the mental or physical examination of the
2 licensee or applicant. No information shall be excluded by
3 reason of any common law or statutory privilege relating to
4 communications between the licensee or applicant and the
5 examining physician. The examining physicians shall be
6 specifically designated by the Department. The individual to be
7 examined may have, at his or her own expense, another physician
8 of his or her choice present during all aspects of this
9 examination. The examination shall be performed by a physician
10 licensed to practice medicine in all its branches. Failure of
11 an individual to submit to a mental or physical examination,
12 when directed, shall result in an automatic suspension without
13 hearing.

14 A person holding a license under this Act or who has
15 applied for a license under this Act who, because of a physical
16 or mental illness or disability, including, but not limited to,
17 deterioration through the aging process or loss of motor skill,
18 is unable to practice the profession with reasonable judgment,
19 skill, or safety, may be required by the Department to submit
20 to care, counseling, or treatment by physicians approved or
21 designated by the Department as a condition, term, or
22 restriction for continued, reinstated, or renewed licensure to
23 practice. Submission to care, counseling, or treatment as
24 required by the Department shall not be considered discipline
25 of a license. If the licensee refuses to enter into a care,
26 counseling, or treatment agreement or fails to abide by the

1 terms of the agreement, the Department may file a complaint to
2 revoke, suspend, or otherwise discipline the license of the
3 individual. The Secretary may order the license suspended
4 immediately, pending a hearing by the Department. Fines shall
5 not be assessed in disciplinary actions involving physical or
6 mental illness or impairment.

7 In instances in which the Secretary immediately suspends a
8 person's license under this Section, a hearing on that person's
9 license must be convened by the Department within 15 days after
10 the suspension and completed without appreciable delay. The
11 Department shall have the authority to review the subject
12 individual's record of treatment and counseling regarding the
13 impairment to the extent permitted by applicable federal
14 statutes and regulations safeguarding the confidentiality of
15 medical records. An individual licensed under this Act and
16 affected under this Section shall be afforded an opportunity to
17 demonstrate to the Department that he or she can resume
18 practice in compliance with acceptable and prevailing
19 standards under the provisions of his or her license. ~~In~~
20 ~~enforcing this Section, the Board, upon a showing of a possible~~
21 ~~violation, may compel a licensee or applicant to submit to a~~
22 ~~mental or physical examination, or both, as required by and at~~
23 ~~the expense of the Department. The examining physicians or~~
24 ~~clinical psychologists shall be those specifically designated~~
25 ~~by the Board. The Board or the Department may order (i) the~~
26 ~~examining physician to present testimony concerning the mental~~

1 ~~or physical examination of a licensee or applicant or (ii) the~~
2 ~~examining clinical psychologist to present testimony~~
3 ~~concerning the mental examination of a licensee or applicant.~~
4 ~~No information shall be excluded by reason of any common law or~~
5 ~~statutory privilege relating to communications between a~~
6 ~~licensee or applicant and the examining physician or clinical~~
7 ~~psychologist. An individual to be examined may have, at his or~~
8 ~~her own expense, another physician or clinical psychologist of~~
9 ~~his or her choice present during all aspects of the~~
10 ~~examination. Failure of an individual to submit to a mental or~~
11 ~~physical examination, when directed, is grounds for suspension~~
12 ~~of his or her license. The license must remain suspended until~~
13 ~~the person submits to the examination or the Board finds, after~~
14 ~~notice and hearing, that the refusal to submit to the~~
15 ~~examination was with reasonable cause.~~

16 ~~If the Board finds an individual unable to practice because~~
17 ~~of the reasons set forth in this Section, the Board must~~
18 ~~require the individual to submit to care, counseling, or~~
19 ~~treatment by a physician or clinical psychologist approved by~~
20 ~~the Board, as a condition, term, or restriction for continued,~~
21 ~~reinstated, or renewed licensure to practice. In lieu of care,~~
22 ~~counseling, or treatment, the Board may recommend that the~~
23 ~~Department file a complaint to immediately suspend or revoke~~
24 ~~the license of the individual or otherwise discipline the~~
25 ~~licensee.~~

26 ~~Any individual whose license was granted, continued,~~

1 ~~reinstated, or renewed subject to conditions, terms, or~~
2 ~~restrictions, as provided for in this Section, or any~~
3 ~~individual who was disciplined or placed on supervision~~
4 ~~pursuant to this Section must be referred to the Director for a~~
5 ~~determination as to whether the person shall have his or her~~
6 ~~license suspended immediately, pending a hearing by the Board.~~

7 (Source: P.A. 96-1482, eff. 11-29-10.)

8 (225 ILCS 107/85)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 85. Violations; injunction; cease and desist order.

11 (a) If any person violates the provisions of this Act, the
12 Secretary ~~Director~~ may, in the name of the People of the State
13 of Illinois, through the Attorney General of the State of
14 Illinois or the State's Attorney of the county in which the
15 violation is alleged to have occurred, petition for an order
16 enjoining the violation or for an order enforcing compliance
17 with this Act. Upon the filing of a verified petition, the
18 court with appropriate jurisdiction may issue a temporary
19 restraining order without notice or bond, and may preliminarily
20 and permanently enjoin the violation. If it is established that
21 the person has violated or is violating the injunction, the
22 court may punish the offender for contempt of court.
23 Proceedings under this Section are in addition to all other
24 remedies and penalties provided by this Act.

25 (b) If any person holds himself or herself out as being a

1 licensed professional counselor or licensed clinical
2 professional counselor under this Act and is not licensed to do
3 so, then any licensed professional counselor, licensed
4 clinical professional counselor, interested party, or any
5 person injured thereby may petition for relief as provided in
6 subsection (a) of this Section.

7 (c) Whenever, in the opinion of the Department, a person
8 violates any provision of this Act, the Department may issue a
9 rule to show cause why an order to cease and desist should not
10 be entered against that person. The rule shall clearly set
11 forth the grounds relied upon by the Department and shall allow
12 at least 7 days from the date of the rule to file an answer
13 satisfactory to the Department. Failure to answer to the
14 satisfaction of the Department shall cause an order to cease
15 and desist to be issued.

16 (Source: P.A. 87-1011.)

17 (225 ILCS 107/90)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 90. Investigations; notice and hearing. The
20 Department may investigate the actions of any applicant or any
21 person holding or claiming to hold a license. The Department
22 shall, before refusing to issue or renew a license or
23 discipline a licensee ~~revoking, suspending, placing on~~
24 ~~probation, reprimanding, or taking any other disciplinary~~
25 ~~action~~ under Section 80 of this Act, at least 30 days prior to

1 the date set for the hearing, (i) notify the accused, in
2 writing, of any charges made and the time and place for the
3 hearing on the charges, (ii) direct him or her to file a
4 written answer to the charges with the Board under oath within
5 20 days after the service ~~on him or her~~ of the notice, and
6 (iii) inform the applicant or licensee ~~accused~~ that failure, if
7 ~~he or she fails~~ to file an answer shall result in, default
8 being ~~will be~~ taken against the applicant or licensee. At the
9 time and place fixed in the notice, the Department shall
10 proceed to hear the charges, and the parties or their counsel
11 shall be accorded ample opportunity to present any pertinent
12 statements, testimony, evidence, and arguments. The Department
13 may continue the hearing from time to time. In case the person,
14 after receiving the notice, fails to answer, his or her license
15 may, in the discretion of the Department, be revoked,
16 suspended, or placed on probationary status, or the Department
17 may take whatever disciplinary action considered proper,
18 including limiting the scope, nature, or extent of the person's
19 practice or the imposition of a fine, without a hearing, if the
20 act or acts charged constitute sufficient grounds for that
21 action under the Act. The written notice and any notice in the
22 subsequent proceeding may be served by registered or certified
23 mail to the licensee's address of record. ~~him or her or that~~
24 ~~his or her license or certificate may be suspended, revoked,~~
25 ~~placed on probationary status, or other disciplinary action~~
26 ~~taken with regard to the license or certificate, including~~

1 ~~limiting the scope, nature, or extent of his or her practice,~~
2 ~~as the Department may deem proper. In case the person, after~~
3 ~~receiving notice, fails to file an answer, his or her license~~
4 ~~may, in the discretion of the Department, be suspended,~~
5 ~~revoked, placed on probationary status, or the Department may~~
6 ~~take whatever disciplinary action deemed proper, including~~
7 ~~limiting the scope, nature, or extent of the person's practice~~
8 ~~or the imposition of a fine, without a hearing, if the act or~~
9 ~~acts charged constitute sufficient grounds for such action~~
10 ~~under this Act. The written notice may be served by personal~~
11 ~~delivery or certified mail to the address specified by the~~
12 ~~accused in his or her last notification to the Department.~~

13 (Source: P.A. 87-1011; 87-1269.)

14 (225 ILCS 107/95)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 95. Record of proceedings; transcript. The
17 Department, at its expense, shall preserve a record of all
18 proceedings at the formal hearing of any case. The notice of
19 hearing, complaint, all other documents in the nature of
20 pleadings, written motions filed in the proceedings, the
21 transcript of testimony, the report of the Board and orders of
22 the Department shall be in the record of such proceeding. ~~The~~
23 ~~Department shall furnish a transcript of the record to any~~
24 ~~person interested in the hearing upon payment of the fee~~
25 ~~required under Section 2105 115 of the Department of~~

1 ~~Professional Regulation Law (20 ILCS 2105/2105-115).~~

2 (Source: P.A. 91-239, eff. 1-1-00.)

3 (225 ILCS 107/98 new)

4 Sec. 98. Confidentiality. All information collected by the
5 Department in the course of an examination or investigation of
6 a licensee or applicant, including, but not limited to, any
7 complaint against a licensee filed with the Department and
8 information collected to investigate any such complaint, shall
9 be maintained for the confidential use of the Department and
10 shall not be disclosed. The Department may not disclose the
11 information to anyone other than law enforcement officials,
12 other regulatory agencies that have an appropriate regulatory
13 interest as determined by the Secretary, or a party presenting
14 a lawful subpoena to the Department. Information and documents
15 disclosed to a federal, State, county, or local law enforcement
16 agency shall not be disclosed by the agency for any purpose to
17 any other agency or person. A formal complaint filed against a
18 licensee by the Department or any order issued by the
19 Department against a licensee or applicant shall be a public
20 record, except as otherwise prohibited by law.

21 (225 ILCS 107/100)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 100. Subpoenas; ~~depositions;~~ oaths. The Department
24 may ~~has the power to~~ subpoena and ~~to~~ bring before it any person

1 ~~and~~ to take the oral or written testimony or compel the
2 production of any books, papers, records, or any other
3 documents that the Secretary or his or her designee deems
4 relevant or material to any investigation or hearing conducted
5 by the Department ~~either orally or by deposition, or both,~~ with
6 the same fees and mileage and in the same manner as prescribed
7 in civil cases in the courts of this State.

8 The Secretary ~~Director,~~ the designated hearing officer,
9 any and every member of the Board, or a certified shorthand
10 court reporter may ~~has the power to~~ administer oaths ~~to~~
11 ~~witnesses~~ at any hearing which the Department conducts ~~is~~
12 ~~authorized to conduct,~~ and any other oaths authorized in any
13 Act administered by the Department. Notwithstanding any other
14 statute or Department rules to the contrary, all requests for
15 testimony, production of documents, or records shall be in
16 accordance with this Act.

17 (Source: P.A. 87-1011.)

18 (225 ILCS 107/105)

19 (Section scheduled to be repealed on January 1, 2013)

20 Sec. 105. Compelling testimony. Any circuit court, upon
21 application of the Department, ~~designated hearing officer,~~ or
22 the ~~applicant or licensee against whom proceedings under~~
23 ~~Section 80 of this Act are pending,~~ may enter an order
24 requiring the attendance of witnesses and their testimony and
25 the production of relevant documents, papers, files, books, and

1 records in connection with any hearing or investigation. The
2 court may compel obedience to its order by proceedings for
3 contempt.

4 (Source: P.A. 87-1011.)

5 (225 ILCS 107/110)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 110. Findings and recommendations. At the conclusion
8 of the hearing, the Board shall present to the Secretary
9 ~~Director~~ a written report of its findings of fact, conclusions
10 of law, and recommendations. The report shall contain a finding
11 whether the licensee violated this Act or failed to comply with
12 the conditions required in this Act. The Board shall specify
13 the nature of the violation or failure to comply, and shall
14 make its recommendations to the Secretary ~~Director~~.

15 The report of findings of fact, conclusions of law, and
16 recommendation of the Board shall be the basis for the
17 Department's order for refusing to issue, restore, or renew a
18 license or otherwise discipline a licensee ~~refusal or for the~~
19 ~~granting of the license~~. If the Secretary ~~Director~~ disagrees
20 with the recommendations of the Board, the Secretary ~~Director~~
21 may issue an order in contravention of the Board
22 recommendations. ~~The Director shall provide a written report to~~
23 ~~the Board on any disagreement and shall specify the reasons for~~
24 ~~the action in the final order~~. The finding is not admissible in
25 evidence against the person in a criminal prosecution brought

1 for the violation of this Act, but the hearing and findings are
2 not a bar to a criminal prosecution brought for the violation
3 of this Act.

4 (Source: P.A. 87-1011.)

5 (225 ILCS 107/115)

6 (Section scheduled to be repealed on January 1, 2013)

7 Sec. 115. Motion for Board, rehearing. In any hearing
8 involving the refusal to issue, renew, or discipline a
9 licensee, At the conclusion of the hearing, a copy of the
10 Board's report shall be served upon the applicant or licensee
11 by the Department, either personally or as provided in this Act
12 for the service of the notice of hearing. Within 20 days after
13 such service, the applicant or licensee may present to the
14 Department a motion in writing for a rehearing which shall
15 specify the particular grounds for rehearing. If no motion for
16 a rehearing is filed, then upon the expiration of the time
17 specified for filing such a motion, or if a motion for
18 rehearing is denied, then upon such denial, the Secretary
19 ~~Director~~ may enter an order in accordance with recommendations
20 of the Board, except as provided in Section 120 of this Act. If
21 the applicant or licensee requests and pays for a transcript of
22 the record within the time for filing a motion for rehearing,
23 the 20-day period within which a motion may be filed shall
24 commence upon the delivery of the transcript to the applicant
25 or licensee.

1 (Source: P.A. 87-1011; 87-1269.)

2 (225 ILCS 107/120)

3 (Section scheduled to be repealed on January 1, 2013)

4 Sec. 120. Order for ~~Director,~~ rehearing. Whenever the
5 Secretary is not satisfied that substantial ~~Director believes~~
6 justice has ~~not~~ been done in the revocation, suspension, or
7 refusal to issue or renew a license or the discipline of a
8 licensee, the Secretary ~~he or she~~ may order a rehearing by the
9 same or other hearing officers.

10 (Source: P.A. 87-1011.)

11 (225 ILCS 107/125)

12 (Section scheduled to be repealed on January 1, 2013)

13 Sec. 125. Appointment of a hearing officer. The Secretary
14 ~~Director~~ has the authority to appoint any attorney licensed to
15 practice law in the State of Illinois to serve as the hearing
16 officer in any action for refusal to issue or renew a license
17 or permit or to discipline a licensee. The hearing officer has
18 full authority to conduct the hearing. ~~At least one member of~~
19 ~~the Board shall attend each hearing.~~ The hearing officer shall
20 report his or her findings of fact, conclusions of law, and
21 recommendations to the Board and to the Secretary ~~Director~~. The
22 Board shall have 60 calendar days from receipt of the report to
23 review it and to present its findings of fact, conclusions of
24 law and recommendation to the Secretary ~~Director~~. If the Board

1 does not present its report within the 60 day period, the
2 Secretary ~~Director~~ may issue an order based on the report of
3 the hearing officer. If the Secretary ~~Director~~ disagrees with
4 the recommendation of the Board or of the hearing officer, the
5 Secretary ~~Director~~ may issue an order in contravention of the
6 recommendation. ~~The Director shall promptly provide a written~~
7 ~~explanation to the Board on any such disagreement.~~

8 (Source: P.A. 87-1011; 87-1269.)

9 (225 ILCS 107/130)

10 (Section scheduled to be repealed on January 1, 2013)

11 Sec. 130. Order or certified copy; prima facie proof. An
12 order or certified copy thereof, over the seal of the
13 Department and purporting to be signed by the Secretary
14 ~~Director~~, is prima facie proof that:

15 (a) the ~~The~~ signature is the genuine signature of the
16 Secretary ~~Director~~; and

17 (b) the Secretary ~~The Director~~ is duly appointed and
18 qualified. ~~;~~ ~~and~~

19 ~~(c) The Board and the members thereof are qualified to act.~~

20 (Source: P.A. 87-1011.)

21 (225 ILCS 107/135)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 135. Restoration of ~~suspended or revoked~~ license from
24 discipline. At any time after successful completion of a term

1 of indefinite probation, suspension, or revocation of a
2 license, the Department may restore the license to the
3 licensee, unless, after an investigation and a hearing, the
4 Secretary determines that restoration is not in the public
5 interest or that the licensee has not been sufficiently
6 rehabilitated to warrant the public trust. No person or entity
7 whose license, certificate, or authority has been revoked as
8 authorized in this Act may apply for restoration of that
9 license, certification, or authority until such time as
10 provided for in the Civil Administrative Code of Illinois
11 Department of Professional Regulation Law. ~~the suspension or~~
12 ~~revocation of any license, the Department may restore it to the~~
13 ~~licensee upon the written recommendation of the Board, unless~~
14 ~~after an investigation and hearing the Board determines that~~
15 ~~restoration is not in the public interest.~~

16 (Source: P.A. 87-1011.)

17 (225 ILCS 107/145)

18 (Section scheduled to be repealed on January 1, 2013)

19 Sec. 145. Summary suspension of license. The Secretary
20 ~~Director~~ may summarily suspend the license of a professional
21 counselor or a clinical professional counselor without a
22 hearing, simultaneously with the institution of proceedings
23 for a hearing provided for in Section 90 of this Act, if the
24 Secretary ~~Director~~ finds that the evidence ~~in the possession of~~
25 ~~the Director~~ indicates that the continuation of practice by the

1 professional counselor or clinical professional counselor
2 would constitute an imminent danger to the public. In the event
3 that the Secretary ~~Director~~ summarily suspends the license of
4 an individual without a hearing, a hearing must be commenced
5 ~~held~~ within 30 days after the suspension has occurred and shall
6 be concluded as expeditiously as possible.

7 (Source: P.A. 87-1011.)

8 (225 ILCS 107/155)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 155. Certification of record; costs. The Department
11 shall not be required to certify any record to the court, to
12 file an answer in court, or to otherwise appear in any court in
13 a judicial review proceeding, unless and until the Department
14 has received from the plaintiff there is filed in the court,
15 ~~with the complaint, a receipt from the Department acknowledging~~
16 ~~payment of the costs of furnishing and certifying the record,~~
17 which costs shall be determined by the Department. Exhibits
18 shall be certified without cost. Failure on the part of the
19 plaintiff to file the receipt in court is grounds for dismissal
20 of the action.

21 (Source: P.A. 87-1011.)

22 (225 ILCS 107/160)

23 (Section scheduled to be repealed on January 1, 2013)

24 Sec. 160. Violations.

1 (a) Unless otherwise specified, any person found to have
2 violated any provision of this Act is guilty of a Class A
3 misdemeanor.

4 (b) Each of the following acts is a Class A misdemeanor for
5 the first offense and a Class 4 felony for a second or
6 subsequent offense:

7 (1) making any willfully false oaths or affirmations in
8 any matter or proceeding where an oath or affirmation is
9 required by this Act;

10 (2) using or attempting to use an inactive, suspended,
11 or revoked license or the license of another; impersonating
12 another licensee; or practicing clinical professional
13 counseling or professional counseling or using the title
14 clinical professional counselor or professional counselor
15 as defined by this Act, in the State while one's license is
16 inactive, suspended, or revoked;

17 (3) practicing, attempting to practice, or offering to
18 practice clinical professional counseling or professional
19 counseling as defined by this Act in the State without a
20 license as a licensed professional counselor or licensed
21 clinical professional counselor; each day of practicing or
22 attempting to practice and each instance of offering to
23 practice without a license as a licensed professional
24 counselor or licensed clinical professional counselor
25 constitutes a separate offense;

26 (4) advertising or displaying any sign or card or other

1 device that might indicate to the public that the person or
2 entity is entitled to practice as a licensed professional
3 counselor or licensed clinical professional counselor
4 unless that person holds an active license as a licensed
5 professional counselor or licensed clinical professional
6 counselor in the State; or

7 (5) obtaining or attempting to obtain a license by
8 fraud.

9 (Source: P.A. 87-1011.)

10 (225 ILCS 107/165)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 165. Administrative Procedure Act; application. The
13 Illinois Administrative Procedure Act is hereby expressly
14 adopted and incorporated in this Act as if all of the
15 provisions of such Act were included in this Act, except that
16 the provision of subsection (d) of Section 10-65 of the
17 Illinois Administrative Procedure Act that provides that at
18 hearings the licensee has the right to show compliance with all
19 lawful requirements for retention, continuation, or renewal of
20 the license is specifically excluded. For the purposes of this
21 Act, the notice required under Section 10-25 of the Illinois
22 Administrative Procedure Act is deemed sufficient when mailed
23 to the last known address of a party.

24 (Source: P.A. 87-1011.)

1 Section 10. The Elder Abuse and Neglect Act is amended by
2 changing Section 2 as follows:

3 (320 ILCS 20/2) (from Ch. 23, par. 6602)

4 Sec. 2. Definitions. As used in this Act, unless the
5 context requires otherwise:

6 (a) "Abuse" means causing any physical, mental or sexual
7 injury to an eligible adult, including exploitation of such
8 adult's financial resources.

9 Nothing in this Act shall be construed to mean that an
10 eligible adult is a victim of abuse, neglect, or self-neglect
11 for the sole reason that he or she is being furnished with or
12 relies upon treatment by spiritual means through prayer alone,
13 in accordance with the tenets and practices of a recognized
14 church or religious denomination.

15 Nothing in this Act shall be construed to mean that an
16 eligible adult is a victim of abuse because of health care
17 services provided or not provided by licensed health care
18 professionals.

19 (a-5) "Abuser" means a person who abuses, neglects, or
20 financially exploits an eligible adult.

21 (a-7) "Caregiver" means a person who either as a result of
22 a family relationship, voluntarily, or in exchange for
23 compensation has assumed responsibility for all or a portion of
24 the care of an eligible adult who needs assistance with
25 activities of daily living.

1 (b) "Department" means the Department on Aging of the State
2 of Illinois.

3 (c) "Director" means the Director of the Department.

4 (d) "Domestic living situation" means a residence where the
5 eligible adult at the time of the report lives alone or with
6 his or her family or a caregiver, or others, or a board and
7 care home or other community-based unlicensed facility, but is
8 not:

9 (1) A licensed facility as defined in Section 1-113 of
10 the Nursing Home Care Act;

11 (1.5) A facility licensed under the ID/DD Community
12 Care Act;

13 (1.7) A facility licensed under the Specialized Mental
14 Health Rehabilitation Act;

15 (2) A "life care facility" as defined in the Life Care
16 Facilities Act;

17 (3) A home, institution, or other place operated by the
18 federal government or agency thereof or by the State of
19 Illinois;

20 (4) A hospital, sanitarium, or other institution, the
21 principal activity or business of which is the diagnosis,
22 care, and treatment of human illness through the
23 maintenance and operation of organized facilities
24 therefor, which is required to be licensed under the
25 Hospital Licensing Act;

26 (5) A "community living facility" as defined in the

1 Community Living Facilities Licensing Act;

2 (6) (Blank);

3 (7) A "community-integrated living arrangement" as
4 defined in the Community-Integrated Living Arrangements
5 Licensure and Certification Act;

6 (8) An assisted living or shared housing establishment
7 as defined in the Assisted Living and Shared Housing Act;
8 or

9 (9) A supportive living facility as described in
10 Section 5-5.01a of the Illinois Public Aid Code.

11 (e) "Eligible adult" means a person 60 years of age or
12 older who resides in a domestic living situation and is, or is
13 alleged to be, abused, neglected, or financially exploited by
14 another individual or who neglects himself or herself.

15 (f) "Emergency" means a situation in which an eligible
16 adult is living in conditions presenting a risk of death or
17 physical, mental or sexual injury and the provider agency has
18 reason to believe the eligible adult is unable to consent to
19 services which would alleviate that risk.

20 (f-5) "Mandated reporter" means any of the following
21 persons while engaged in carrying out their professional
22 duties:

23 (1) a professional or professional's delegate while
24 engaged in: (i) social services, (ii) law enforcement,
25 (iii) education, (iv) the care of an eligible adult or
26 eligible adults, or (v) any of the occupations required to

1 be licensed under the Clinical Psychologist Licensing Act,
2 the Clinical Social Work and Social Work Practice Act, the
3 Illinois Dental Practice Act, the Dietetic and Nutrition
4 Services Practice Act, the Marriage and Family Therapy
5 Licensing Act, the Medical Practice Act of 1987, the
6 Naprapathic Practice Act, the Nurse Practice Act, the
7 Nursing Home Administrators Licensing and Disciplinary
8 Act, the Illinois Occupational Therapy Practice Act, the
9 Illinois Optometric Practice Act of 1987, the Pharmacy
10 Practice Act, the Illinois Physical Therapy Act, the
11 Physician Assistant Practice Act of 1987, the Podiatric
12 Medical Practice Act of 1987, the Respiratory Care Practice
13 Act, the Professional Counselor and Clinical Professional
14 Counselor Licensing and Practice Act, the Illinois
15 Speech-Language Pathology and Audiology Practice Act, the
16 Veterinary Medicine and Surgery Practice Act of 2004, and
17 the Illinois Public Accounting Act;

18 (2) an employee of a vocational rehabilitation
19 facility prescribed or supervised by the Department of
20 Human Services;

21 (3) an administrator, employee, or person providing
22 services in or through an unlicensed community based
23 facility;

24 (4) any religious practitioner who provides treatment
25 by prayer or spiritual means alone in accordance with the
26 tenets and practices of a recognized church or religious

1 denomination, except as to information received in any
2 confession or sacred communication enjoined by the
3 discipline of the religious denomination to be held
4 confidential;

5 (5) field personnel of the Department of Healthcare and
6 Family Services, Department of Public Health, and
7 Department of Human Services, and any county or municipal
8 health department;

9 (6) personnel of the Department of Human Services, the
10 Guardianship and Advocacy Commission, the State Fire
11 Marshal, local fire departments, the Department on Aging
12 and its subsidiary Area Agencies on Aging and provider
13 agencies, and the Office of State Long Term Care Ombudsman;

14 (7) any employee of the State of Illinois not otherwise
15 specified herein who is involved in providing services to
16 eligible adults, including professionals providing medical
17 or rehabilitation services and all other persons having
18 direct contact with eligible adults;

19 (8) a person who performs the duties of a coroner or
20 medical examiner; or

21 (9) a person who performs the duties of a paramedic or
22 an emergency medical technician.

23 (g) "Neglect" means another individual's failure to
24 provide an eligible adult with or willful withholding from an
25 eligible adult the necessities of life including, but not
26 limited to, food, clothing, shelter or health care. This

1 subsection does not create any new affirmative duty to provide
2 support to eligible adults. Nothing in this Act shall be
3 construed to mean that an eligible adult is a victim of neglect
4 because of health care services provided or not provided by
5 licensed health care professionals.

6 (h) "Provider agency" means any public or nonprofit agency
7 in a planning and service area appointed by the regional
8 administrative agency with prior approval by the Department on
9 Aging to receive and assess reports of alleged or suspected
10 abuse, neglect, or financial exploitation.

11 (i) "Regional administrative agency" means any public or
12 nonprofit agency in a planning and service area so designated
13 by the Department, provided that the designated Area Agency on
14 Aging shall be designated the regional administrative agency if
15 it so requests. The Department shall assume the functions of
16 the regional administrative agency for any planning and service
17 area where another agency is not so designated.

18 (i-5) "Self-neglect" means a condition that is the result
19 of an eligible adult's inability, due to physical or mental
20 impairments, or both, or a diminished capacity, to perform
21 essential self-care tasks that substantially threaten his or
22 her own health, including: providing essential food, clothing,
23 shelter, and health care; and obtaining goods and services
24 necessary to maintain physical health, mental health,
25 emotional well-being, and general safety. The term includes
26 compulsive hoarding, which is characterized by the acquisition

1 and retention of large quantities of items and materials that
2 produce an extensively cluttered living space, which
3 significantly impairs the performance of essential self-care
4 tasks or otherwise substantially threatens life or safety.

5 (j) "Substantiated case" means a reported case of alleged
6 or suspected abuse, neglect, financial exploitation, or
7 self-neglect in which a provider agency, after assessment,
8 determines that there is reason to believe abuse, neglect, or
9 financial exploitation has occurred.

10 (Source: P.A. 96-339, eff. 7-1-10; 96-526, eff. 1-1-10; 96-572,
11 eff. 1-1-10; 96-1000, eff. 7-2-10; 97-38, eff. 6-28-11; 97-227,
12 eff. 1-1-12; 97-300, eff. 8-11-11; revised 10-4-11.)

13 Section 15. The Unified Code of Corrections is amended by
14 changing Section 5-5-5 as follows:

15 (730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

16 Sec. 5-5-5. Loss and Restoration of Rights.

17 (a) Conviction and disposition shall not entail the loss by
18 the defendant of any civil rights, except under this Section
19 and Sections 29-6 and 29-10 of The Election Code, as now or
20 hereafter amended.

21 (b) A person convicted of a felony shall be ineligible to
22 hold an office created by the Constitution of this State until
23 the completion of his sentence.

24 (c) A person sentenced to imprisonment shall lose his right

1 to vote until released from imprisonment.

2 (d) On completion of sentence of imprisonment or upon
3 discharge from probation, conditional discharge or periodic
4 imprisonment, or at any time thereafter, all license rights and
5 privileges granted under the authority of this State which have
6 been revoked or suspended because of conviction of an offense
7 shall be restored unless the authority having jurisdiction of
8 such license rights finds after investigation and hearing that
9 restoration is not in the public interest. This paragraph (d)
10 shall not apply to the suspension or revocation of a license to
11 operate a motor vehicle under the Illinois Vehicle Code.

12 (e) Upon a person's discharge from incarceration or parole,
13 or upon a person's discharge from probation or at any time
14 thereafter, the committing court may enter an order certifying
15 that the sentence has been satisfactorily completed when the
16 court believes it would assist in the rehabilitation of the
17 person and be consistent with the public welfare. Such order
18 may be entered upon the motion of the defendant or the State or
19 upon the court's own motion.

20 (f) Upon entry of the order, the court shall issue to the
21 person in whose favor the order has been entered a certificate
22 stating that his behavior after conviction has warranted the
23 issuance of the order.

24 (g) This Section shall not affect the right of a defendant
25 to collaterally attack his conviction or to rely on it in bar
26 of subsequent proceedings for the same offense.

1 (h) No application for any license specified in subsection
2 (i) of this Section granted under the authority of this State
3 shall be denied by reason of an eligible offender who has
4 obtained a certificate of relief from disabilities, as defined
5 in Article 5.5 of this Chapter, having been previously
6 convicted of one or more criminal offenses, or by reason of a
7 finding of lack of "good moral character" when the finding is
8 based upon the fact that the applicant has previously been
9 convicted of one or more criminal offenses, unless:

10 (1) there is a direct relationship between one or more
11 of the previous criminal offenses and the specific license
12 sought; or

13 (2) the issuance of the license would involve an
14 unreasonable risk to property or to the safety or welfare
15 of specific individuals or the general public.

16 In making such a determination, the licensing agency shall
17 consider the following factors:

18 (1) the public policy of this State, as expressed in
19 Article 5.5 of this Chapter, to encourage the licensure and
20 employment of persons previously convicted of one or more
21 criminal offenses;

22 (2) the specific duties and responsibilities
23 necessarily related to the license being sought;

24 (3) the bearing, if any, the criminal offenses or
25 offenses for which the person was previously convicted will
26 have on his or her fitness or ability to perform one or

1 more such duties and responsibilities;

2 (4) the time which has elapsed since the occurrence of
3 the criminal offense or offenses;

4 (5) the age of the person at the time of occurrence of
5 the criminal offense or offenses;

6 (6) the seriousness of the offense or offenses;

7 (7) any information produced by the person or produced
8 on his or her behalf in regard to his or her rehabilitation
9 and good conduct, including a certificate of relief from
10 disabilities issued to the applicant, which certificate
11 shall create a presumption of rehabilitation in regard to
12 the offense or offenses specified in the certificate; and

13 (8) the legitimate interest of the licensing agency in
14 protecting property, and the safety and welfare of specific
15 individuals or the general public.

16 (i) A certificate of relief from disabilities shall be
17 issued only for a license or certification issued under the
18 following Acts:

19 (1) the Animal Welfare Act; except that a certificate
20 of relief from disabilities may not be granted to provide
21 for the issuance or restoration of a license under the
22 Animal Welfare Act for any person convicted of violating
23 Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane
24 Care for Animals Act or Section 26-5 of the Criminal Code
25 of 1961;

26 (2) the Illinois Athletic Trainers Practice Act;

- 1 (3) the Barber, Cosmetology, Esthetics, Hair Braiding,
2 and Nail Technology Act of 1985;
- 3 (4) the Boiler and Pressure Vessel Repairer Regulation
4 Act;
- 5 (5) the Boxing and Full-contact Martial Arts Act;
- 6 (6) the Illinois Certified Shorthand Reporters Act of
7 1984;
- 8 (7) the Illinois Farm Labor Contractor Certification
9 Act;
- 10 (8) the Interior Design Title Act;
- 11 (9) the Illinois Professional Land Surveyor Act of
12 1989;
- 13 (10) the Illinois Landscape Architecture Act of 1989;
- 14 (11) the Marriage and Family Therapy Licensing Act;
- 15 (12) the Private Employment Agency Act;
- 16 (13) the Professional Counselor and Clinical
17 Professional Counselor Licensing and Practice Act;
- 18 (14) the Real Estate License Act of 2000;
- 19 (15) the Illinois Roofing Industry Licensing Act;
- 20 (16) the Professional Engineering Practice Act of
21 1989;
- 22 (17) the Water Well and Pump Installation Contractor's
23 License Act;
- 24 (18) the Electrologist Licensing Act;
- 25 (19) the Auction License Act;
- 26 (20) the Illinois Architecture Practice Act of 1989;

- 1 (21) the Dietetic and Nutrition Services Practice Act;
- 2 (22) the Environmental Health Practitioner Licensing
- 3 Act;
- 4 (23) the Funeral Directors and Embalmers Licensing
- 5 Code;
- 6 (24) the Land Sales Registration Act of 1999;
- 7 (25) the Professional Geologist Licensing Act;
- 8 (26) the Illinois Public Accounting Act; and
- 9 (27) the Structural Engineering Practice Act of 1989.

10 (Source: P.A. 96-1246, eff. 1-1-11; 97-119, eff. 7-14-11.)

11 Section 99. Effective date. This Act takes effect upon

12 becoming law.

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- 4 5 ILCS 80/4.33 new
- 5 225 ILCS 107/1
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- 7 225 ILCS 107/10
- 8 225 ILCS 107/15
- 9 225 ILCS 107/18 new
- 10 225 ILCS 107/20
- 11 225 ILCS 107/21
- 12 225 ILCS 107/25
- 13 225 ILCS 107/30 from Ch. 111, par. 8451-30
- 14 225 ILCS 107/45
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- 1 225 ILCS 107/110
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- 9 225 ILCS 107/160
- 10 225 ILCS 107/165
- 11 320 ILCS 20/2
- 12 730 ILCS 5/5-5-5

from Ch. 23, par. 6602

from Ch. 38, par. 1005-5-5